SUPREME COURT, U. S.

FILED
AUG 12 1967
JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

AT WASHINGTON, D. C.

NATHAN INMAN GOFF, JR.,
Petitioner,

Vs.

SUE ELLEN WEEMS KINNEY GOFF,
Respondent.

No. 485

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IN THE

CIRCUIT COURT OF SHELBY COUNTY,

TENNESSEE

NATHAN INMAN GOFF, JR. Complainant. Vs. SUE ELLEN WEEMS KINNEY GOFF, Defendant.	No. 3531 R. D. Entered: Feb. 4, 1966 Minute Book 8, Page 203, Div. 6

ORDER MODIFYING INJUNCTION

This cause came on this 4th day of February, 1966, before the Honorable Friel Hastings, Judge, Division VI of the Circuit Court of Shelby County, Tennessee, upon motion of complainant "To Dissolve Injunction Issued Against Nathan Inman Goff, Jr.", upon the record as a whole and upon the testimony of the complainant and the defendant.

And it appearing to the Court that the motion should not be granted to the extent requested, but that the injunction should be modified to permit certain funds only to be released to the complainant in order that he might pay certain installments due and past due on certain mortgages, his medical and hospital bills accrued as a result of his confinement incident to a lunacy proceeding, and bills accrued and to become due for repairs and maintenance of certain rental property.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the injunction heretofore issued in this cause against Nathan Inman Goff, Jr., be, and the same is hereby, modified so as to strike, cancel, delete and remove from said injunction the following items, to-wit:

> First National Bank of Memphis, enjoining them from disbursing any funds, until further orders of this Court on Account No. 20-0137138, Nathan I. Goff, Jr.
>
> First National Bank of Memphis, enjoining them from disbursing any funds, until further orders of this Court on Savings Account No. 20-7405545, Nathan Inman Goff, Jr.
>
> D. W. McLemore Company, of Memphis, enjoining them from paying any funds over to cross-defendant or his agent or attorney, which is collected monthly on rental property, but to deposit same in commercial account, except upon orders of this Court.

2. That the complainant shall, notwithstanding the injunction heretofore issued against him, have the right and privilege of receiving the sums from the First National Bank of Memphis, Germantown Branch, totalling $4,487.26, more or less; and from D. W. McLemore Company in the amount of $1,721.08 as well as any additional monies that may be or become due to complainant by said D. W. McLemore Company from time to time; and from all of said proceeds complainant may pay certain installments due or past due or to hereafter become due on certain mortgages and he may pay bills now due or which may hereafter be-

come due for repairs and maintenance to certain rental property; and complainant may pay his doctor bills, hospital bills, and other expenses accrued as a result of a certain lunacy proceeding.

3. That the rest and remainder of the injunction heretofore issued against the complainant in this cause shall, and the same is hereby, continued and in full force and effect.

To which action of the Court the complainant excepts.

/s/ Friel Hastings, Judge
Enter: Feb. 4, 1966

/s/ Richard T. Ely,
Attorney for Complainant

/s/ Tom P. Mitchell,
Attorney for Defendant

IN THE

CIRCUIT COURT OF SHELBY COUNTY,

TENNESSEE

NATHAN INMAN GOFF, JR. Complainant. Vs. SUE ELLEN WEEMS KINNEY GOFF, Defendant.	No. 3531 R. D. Entered: April 12, 1966 Minute Book 8, Page 319, Div. 6 Hon. Friel Hastings, Judge

CONSENT ORDER MODIFYING INJUNCTION

This cause came on to be heard upon written motion of the Cross-Complainant, Sue Ellen Weems Kinney Goff, filed in this cause, upon the testimony of Defendant and Cross-Complainant, Sue Ellen Weems Kinney Goff, upon statement of the attorneys for both parties, and upon the record as a whole following which the Court took the Motion under advisement and, while under advisement, and with the advice and consent of this Honorable Court, the parties reached an agreement, whereby certain funds in the First National Bank of Memphis heretofore impounded by injunction should be released from the injunction and one-half of certain gold stocks, held by Merrill Lynch, Pierce, Fenner & Smith, Inc., heretofore impounded by injunction, and dividends due, or to become due on said gold stocks should be removed entirely from the aforesaid injunction.

That said one-half of gold stock, as listed below, and all dividends on said gold stock now due from said stock

should be turned over to the Honorable Richard T. Ely for the Complainant and Cross-Defendant, Nathan Inman Goff, Jr. The remaining one-half of gold stock will remain impounded by injunction in the hands of Merrill Lynch, Pierce, Fenner & Smith, Inc., and further that one-half of dividends due from said gold stock shall be paid by the said Richard T. Ely to Nathan Inman Goff, Jr., and the remaining one-half of said dividends shall remain in the hands of the said Richard T. Ely as Trustee for the use and benefit of Sue Ellen Weems Kinney Goff, and the two (2) children of the parties.

The sum of $6,080.20, released from the First National Bank of Memphis shall be divided as follows: One-half of said funds shall remain in the hands of the Honorable Richard T. Ely as Trustee, for the use and benefit of Sue Ellen Weems Kinney Goff, and the two (2) children of the parties, and the remaining one-half shall be paid to the Complainant and Cross-Defendant, Nathan Inman Goff, Jr.

The said Richard T. Ely is hereby ordered to pay from funds held by him as Trustee for Sue Ellen Weems Kinney Goff, and the two (2) children of the parties, as follows:

1. To Sue Ellen Weems Kinney Goff the sum of $729.00, as support and maintenance for February, March and April, 1966; and

2. To Leader Federal Savings & Loan Association the sum of $214.00 for the March and April, 1966, installments on the mortgage on 4500 Lawrence Avenue, Memphis, Tennessee; and

3. To Tom P. Mitchell, Attorney, the sum of $500.00 as his temporary fee heretofore awarded; and

4. To Richard T. Ely, the sum of $500.00, as his partial attorney fee due from Nathan Inman Goff, Jr.

Further, the said Richard T. Ely shall maintain the balance of said bank account and one-half of the dividends of said gold stocks for the use and maintenance of Sue Ellen Weems Kinney Goff, and the two (2) children of the parties; and on the 4th day of each month, he, the said Richard T. Ely, shall pay the installment on the mortgage, in the amount of $107.00, on the residence of 4500 Lawrence Avenue, and pay to Sue Ellen Weems Kinney Goff, the sum of $243.00 for the support and maintenance, and for the use and benefit of the said Sue Ellen Weems Kinney Goff and the two (2) children of the parties, until further orders of this Court; provided, however, that a credit is due Complainant and Cross-Defendant, Nathan Inman Goff, Jr., against support and maintenance of the total sum of $199.50.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, by consent, that the injunction heretofore issued be, and the same is hereby amended and modified so as to strike, cancel, delete and remove the following items, to-wit:

> First National Bank of Memphis, enjoined from disbursing any funds until further orders of this Court in account number 05-6436005, Nathan I. Goff, Trustee.
>
> Merrill Lynch, Pierce, Fenner & Smith, Inc., enjoined from transferring, selling or disposing of any of the stock until further orders of this Court, 564 26613, as follows:
>
> 1750 shares Free State Ged.
> 1000 shares Pres. Brand
> 1000 shares Pres. Steyn
> 500 shares Stilfontein
> 1500 shares Hartebeestfontein

Nathan I. Goff, Jr., Complainant and Cross-Defendant, enjoyned from transferring, selling or disposing of any of the stocks, monies, either by himself, or through his attorney and/or agent.

FURTHER, IT IS ORDERED, that the gold stocks above mentioned amounting to one-half of the stocks, subject of the injunction, and dividends due, shall be turned over to the Honorable Richard T. Ely for Nathan Inman Goff, Jr.

FURTHER, IT IS ORDERED, that the funds amounting to $6,080.20, in the First National Bank of Memphis, and subject to the injunction, shall be paid over to the Honorable Richard T. Ely, and he is authorized to make the following disposition thereof:

1. That the said gold stocks, by this instrument released, may be turned over to the Complainant and Cross-Defendant, Nathan Inman Goff, Jr.

2. That one-half of the dividends due on said gold stocks shall be paid by the Honorable Richard T. Ely to Cross-Defendant, Nathan Inman Goff, Jr.

3. That one-half of the funds released from the First National Bank of Memphis, shall be paid by the Honorable Richard T. Ely to the Cross-Defendant, Nathan Inman Goff, Jr.

4. That the remaining one-half of the monies in the First National Bank of Memphis, plus one-half of dividends from all gold stocks shall be retained by Richard T. Ely, as Trustee.

FURTHER, IT IS ORDERED, that the Honorable Richard T. Ely immediately pay from said funds to the Defendant and Cross-Complainant, Sue Ellen Weems Kinney Goff, the sum of $729.00, as support and maintenance for February, March and April, 1966; and

FURTHER that the said Richard T. Ely, immediately pay the sum of $214.00 to Leader Federal Savings & Loan Association, for the March and April, 1966, installments on the residence of 4500 Lawrence Avenue, Memphis, Tennessee; and

FURTHER, IT IS ORDERED, that the said Richard T. Ely shall immediately pay to Tom P. Mitchell, Attorney, the sum of $500.00 as his temporary fee, awarded by this Court; and

FURTHER, IT IS ORDERED, that the said Richard T. Ely shall pay to himself a partial fee due him from Nathan Inman Goff, Jr., in the sum of $500.00.

FURTHER, IT IS ORDERED, that the said Richard T. Ely maintain the remaining balance of dividends and funds from the First National Bank of Memphis, and shall pay, on the 4th day of each month, installments on the mortgage on the property at 4500 Lawrence Avenue, Memphis, Tennessee, in the amount of $107.00; and the sum of $243.00, per month, to Sue Ellen Weems Kinney Goff, for support and maintenance of herself and the two (2) children of the parties.

ALL OF WHICH IS ORDERED, ADJUDGED AND DECREED BY THE COURT ON THIS THE 12th DAY OF APRIL, 1966.

/s/ Friel Hastings, Judge

APPROVED:

/s/ Richard T. Ely

/s/ Tom P. Mitchell

IN THE

CIRCUIT COURT OF SHELBY COUNTY,

TENNESSEE

NATHAN INMAN GOFF, JR.
Complainant and
Cross Defendant

Vs.

SUE ELLEN WEEMS KINNEY GOFF,
Defendant and
Cross Defendent.

No. 3531 R. D.

Entered: Aug. 12, 1966
Minute Book 8,
Page 519, Div. 6

ORDER

This cause came on this day to be heard before the Honorable Friel Hastings, Judge of Division VI of the Circuit Court of Shelby County, Tennessee, upon the Motion of the Complainant and Cross Defendant, Nathan Inman Goff, Jr., for transfer of this cause to another division of Court, which Motion the Court finds is not well taken, and is overruled, to which action of the Court the said Complainant and Cross Defendant excepted and prayed a discretionary appeal, the same being denied to which further action of the Court, the Complainant and Cross Defendant excepted.

/s/ Friel Hastings, Judge
Enter: Aug. 12, 1966

APPROVED:
/s/ Richard T. Ely,
Attorney for Complainant and Cross Defendant.
/s/ Tom P. Mitchell,
Attorney for Defendant and Cross Complainant.

IN THE

CIRCUIT COURT OF SHELBY COUNTY,

TENNESSEE

NATHAN INMAN GOFF, JR.
Complainant and
Cross Defendant.

Vs.

SUE ELLEN WEEMS KINNEY GOFF,
Defendant and
Cross Camplainant.

No. 3531 R. D.

Entered:
August 12, 1966
Minute Book 8,
Page 519, Div. 6
Hon. Friel Hastings,
Judge

ORDER

This cause came on this day to be heard before the Honorable Friel Hastings, Judge of Division VI of the Circuit Court of Shelby County, Tennessee, upon the motion of Sue Ellen Weems Kinney Goff, to allow, among other things, Richard T. Ely, Trustee to resign as trustee and to pay certain funds, in the hands of the said Richard T. Ely, into the Clerk of this Court, and

It appearing to the Court, after able argument presented by Richard T. Ely and Tom P. Mitchell, on said motion that at the time of the entry of the Consent Order in this cause, there were no liquid assets and certain matters had to be paid; that at that time it was then in the contemplation of all that said divorce would be tried within the next two or three weeks ensuing that, but that was not the case. That since this divorce was not heard at that time, Richard T. Ely, began paying funds out as Trustee, and has nearly reached the bottom of the barrel of funds he had on hand, and

It further appearing to the Court that Richard T. Ely, since the entry of the Consent Order in this cause, has received the sum of $4,261.40, as dividends on gold stocks, of which $1,226.40 was due at the time of the said entry of said consent order, and the sum of $3,035.00, represents recent dividends due, since the entry of said consent order.

The Court is of the opinion, AND SO ORDERS, that the total dividends in the amount of $4,261.40 be divided as follows:

> The sum of $2,130.70 of the dividends on said gold stock to be paid over to Nathan Inman Goff, Jr., individually and
> The sum of $2,130.70 of the dividends on said gold stock be received by Richard T. Ely as Trustee for Sue Ellen Weems Kinney Goff and the two minor children of the parties.

This being done in order to insure the payment currently of alimony and child support as ordered by the Court, and in order to insure the payment of the mortgage on the property, at 4500 Lawrence, Memphis, Shelby County, Tennessee.

Further, the Court is of the opinion that the said Nathan Inman Goff, Jr. would be protected, in that his own attorney would hold said funds, notwithstanding his holding it as Trustee, should he so elect.

IT IS FURTHER ORDERED, that in the alternative, Richard T. Ely, Trustee, may, in his discretion, resign as said Trustee, file an accounting, and upon the approval of said settlement by the Court pay the remaining funds in his hands, as Trustee, to the Clerk of this Court, who, in such event, shall pay from said funds to Sue Ellen

Weems Kinney Goff, for herself and the use and benefit of the two minor children of the parties, the sum of $243.00 per month; and to Leader Federal Savings & Loan Association, the sum of $111.00 per month, being the monthly installment on the mortgage on the residence at 4500 Lawrence, Memphis, Shelby County, Tennessee.

To all of which action of the Court, the Complainant and Cross Defendant, Nathan Inman Goff, Jr., excepted and prayed for a discretionary appeal, which the Court refused, and to which further action the Complainant and Cross Defendant, Nathan Inman Goff, Jr., excepted.

/s/ FRIEL HASTINGS
Judge

ENTER: Aug. 12, 1966

APPROVED:

/s/ RICHARD T. ELY,
Attorney

/s/ TOM P. MITCHELL
Attorney

IN THE

COURT OF APPEALS,

WESTERN DIVISION

NATHAN INMAN GOFF, JR.
PETITIONER

Vs.

SUE ELLEN WEEMS KINNEY GOFF,
RESPONDENT

Filed: Feb. 23, 1967

Bessie Buffaloe, Clerk
Minute Book 59,
Page 18

On the 13th day of September, 1966 there was presented by the Petitioner, Nathan Inman Goff, Jr., to a member of this Court, his Honor, Judge L. D. Bejach, a petition for writ of Certiorari and Supersedeas seeking to have certain orders of the Honorable Friel Hastings, Judge of Division Six of the Circuit Court of Shelby County, reviewed and set aside, among which was an order of the Court denying the original petitioner a change of venue.

Judge Bejach refused to grant the Writ of Certiorari and Supersedeas, saying:

> "Within application for writs of certiorari and supersedeas denied, because this Judge is of opinion that the petitioner's remedy, if any, is by appeal.
>
> "This the 13th day of Sept., 1966.
>
> "/s/ L. D. Bejach, Chancellor."

Thereafter on September 19, 1966, the petitioner for-

warded said petition, together with a transcript of the record in the Trial Court to the Clerk of this Court, together with a letter in which he requested that the petition for certiorari and supersedeas be considered by the whole Court. In the letter he said:

> "It is respectfully requested that the enclosed be filed and brought to the attention of the court at the earliest possible date with the request that a hearing be granted."

No motion was made at that time to set aside the order of the aforesaid Judge of this Court, who was a former Chancellor in the Chancery Court of Shelby County. At that time petitioner filed in this Court what he termed "Assignment of Errors."

On February 15, 1967, Respondent filed a Petition to Sustain the Action of Judge Bejach in denying writ of certiorari and supersedeas, and to strike the record.

This matter was preliminarily heard before this Court on the 23rd day of February, 1967, when both parties appeared by counsel and presented argument on the question of whether the order made by Judge Bejach should be sustained or denied.

It is the opinion of the Court that the Petition for Certiorari is not well taken and, therefore, is denied. It is further the opinion of this Court that the action sought in this Court with respect to the decrees appearing in the record would be purely interlocutory in nature and that the case should be proceeded with in the Court below to such a final decree as might bring the whole matter up to this Court, if appeal is properly granted and perfected.

IT IS, THEREFOR, ORDERED That the Petition for Certiorari and Supersedeas be denied and the entire record

as now filed in this Court be remanded to the Circuit Court of Shelby County, Division Six for such further and other action as may be properly and legally had therein, and that no prejudice to the rights of any party in the future proceedings of that Court may result from the filing of the petition in this Court. The cost of this temporary proceeding is assessed to petitioner.

IT IS ACCORDINGLY ORDERED AND DECREED that this order will be entered on the minutes of this Court on this date.

This February 23, 1967.

Judge

Judge

IN THE

SUPREME COURT OF TENNESSEE,

WESTERN DIVISION

NATHAN INGMAN GOFF, JR.
VS.
SUE ELLEN WEEMS KINNEY GOFF } SHELBY LAW DENIED

This cause came on to be heard upon a petition for certierari, and after full consideration by the Court, the Court is of opinion that there is no merit in said petition, and the same is accordingly denied at the cost of the petitioner, for which let execution issue.

FILED
April 3, 1967
BESSIE BUFFALOE, Clerk
Minute Book 99, page 5.

IN THE

SUPREME COURT OF TENNESSEE,

WESTERN DIVISION

NATHAN INMAN GOFF, JR. VS. SUE ELLEN WEEMS KINNEY GOFF	SHELBY LAW PETITION TO REHEAR DENIED

This cause came on to be heard upon a petition to Rehear, and after full consideration by the Court, the Court is of opinion that there is no merit in said petition, and the same is accordingly denied at the cost of the petitioner, for which let execution issue.

FILED
May 15, 1967

BESSIE BUFFALOE, Clerk
Minute Book 99, page 34.